

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10739 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

RAJKOT VEGETABLE MARKET COMMISSION AGENT ASS

Versus

RAJKOT AGRICULTURAL PRODUCES MARKET COMMITTEE

Appearance:

MR YS LAKHANI	for Petitioner
MR TUSHAR MEHTA	for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 28/02/96

ORAL JUDGEMENT

This Special Civil Application has been filed by Rajkot Vegetable Market Whole-sale Commission Agent Association seeking direction against the respondent Rajkot Agricultural Produces Market Committee to fulfil the commitment made on 30-7-1993.

2. It is stated that that on 30-7-1993 the agreement was executed a copy of which has been placed on record at annexure 'D'. The say of petitioner is that as per the agreement the members of the petitioner's association are entitled to

allotment of shops. The names of the members of the petitioner's Association have been given in Annexure 'B'.

3. Mr H.V. Vadodariya, Secretary of Respondent Market Committee has filed the affidavit taking preliminary objections that the petition involves a disputed question of facts and further that in substance the petitioner has sought specific performance. On merits of the case, it is submitted that the petitioner has proceeded on an erroneous assumption of existence of a binding contract entered into by the respondent Committee on one hand and the petitioner Association on the other hand. It is stated that there is no agreement but in fact there is a letter which contains the proposal made by the said Association to the respondent Committee in pursuance of some initial negotiations which had taken place with regard allotment of shops. The signature which is alleged to be the signatures signifying the consent being given by the Committee to accept the letter as a contract containing terms and conditions of the contract is also visible. The deponent has made a statement that he had signed on the first page at the bottom acknowledging having receiving the letter dated 30-7-1993. It is asserted that the said signature was never intended to be nor can be construed as having given consent to enter into the contract on the terms and conditions suggested by the petitioner Association in the letter dated 30-7-1993. It is also submitted that in view of Section 19 of the Gujarat Agricultural Produce Markets Act, 1963, every contract entered into by a market committee shall be in writing and shall be signed on behalf of the market committee by its Chairman and two other members. Thus, if any contract does not fulfil the required conditions containing in Section 19 of the Gujarat Agricultural Produce Markets Act, 1963 would not be binding upon the respondent.

4. During the pendency of this Special Civil Application Civil Application has been filed which is being registered as Civil Application No.1388 of 1994, stating that they had never authorized the original petitioner to file any petition on their behalf and they have no grievance whatsoever against the respondent Committee which is shown by the petitioner Association.

5. Additional affidavit is filed by Kiritkumar Jayantilal Kundalia,, stating that the shops have been allotted to the applicants of Civil Application No.1388/94 by the respondents without holding any auction and by way of negotiation and on the strength of the same understanding between the parties as stated in the letter dated 30-7-1993 except change of amount of goodwill. It is further stated that they have been allotted shops on the contractual basis without holding any auction on 1-12-1994 in the 'J' row constructed by the respondents.

6. Considering the facts of the case, without going into the merits of the case, it would be appropriate if the petitioner makes a representation to the respondent Committee and the same is considered by the respondent Committee in right perspective most particularly keeping in view the fact that 15 members of the petitioner Association have been allotted shops.

7. This Special Civil Application is rejected with the aforesaid observation. Notice is discharged.

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